

Lincoln. p. 178.

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ARTICLE I.—THE CONFLICT WITH SKEPTICISM AND
UNBELIEF. FIFTH ARTICLE :—THE NATURE AND FUNCTION
OF THE CHRISTIAN MIRACLES.

WE make the attempt in this Article to define the nature, and determine the appropriate and appointed use of miracles. Incidental reference will be made to recent objections and difficulties, although few, if any, of these will be found to be really novel or previously unanswered. The path of our discussion lies in great part through a not unfamiliar field; yet more precise conceptions of accepted truth are sometimes of hardly less value than new discoveries. For the sake of greater clearness, the remarks we have to offer will be arranged under a series of special topics.

WHAT IS THE IDEA OF A MIRACLE?

In answering this question we reject at the outset what the Germans call *the relative nature* of the miracle, or the notion that the miraculous quality of such an event is merely rela-

ARTICLE VIII.—PRESIDENT LINCOLN'S PROCLAMATION
OF FREEDOM TO THE SLAVES.

MILITARY events are rapidly disclosing new grounds and occasions for PRESIDENT LINCOLN's Act of Liberation, illustrating its necessity, and thereby affording new proofs both of its validity and its universal applicability to the insurgent States. The insurgent leaders themselves are, by their debates and their prospective measures, becoming, so to speak, state's evidence upon this subject.

The surrender of Atlanta appears to have forced a conviction upon the Confederate Executive that the measure of *arming the slaves* must be seriously entertained. The revelations of the astounding speech of Jefferson Davis, at Macon, were deliberate and unavoidable; because nothing but a public disclosure of the desperate deficiencies of the military force of the rebellion could temper the sentiments of a slaveholding community to those projects in the rebel Congress for recruiting from the negro population, which the message of Davis partially offered to their consideration, without expressly favoring or naming the measure.

That slaves can be made manageable soldiers and effective fighting men, when it is their own freedom which they fight to obtain, has been settled in the world's history of war and insurrection, even in advance of the demonstration—now accepted as complete—which the negro regiments of the existing Union armies have, in various battles and assaults, brilliantly supplied. The fighting capabilities of the African were especially tested and established by the insurrectionary wars of St. Domingo, in the course of which the extemporized forces composed of this material overpowered and defeated successively, the French army, the combined armies of Spain and England, and finally the battalions—thirty thousand strong—of the first consul Napoleon, aided by the presence and coöperation of sixty vessels of war. It is related that these insurrectionary troops

threw themselves persistently and overwhelmingly upon the practiced batteries of the Europeans. Not only there was proven a capacity to fight, but an ability to command, as well; for that remarkable leader—and afterwards civil Governor—Toussaint l'Overture, to quote no other instance, was both a slave himself and born of slave parents.

But these prodigies of achievement by the Haytien troops were not the product of an enthusiasm inspired in the individual soldier by the expectation of *personal* emancipation merely, but by the promise of universal and interminable freedom for his entire congenital class—for children, wife, brothers, and the fellows of his race—to be elevated together to the condition and privileges of self-regulating human beings. Such, also, is the expectation and the all inspiring motive, held out by the President's Act of Liberation, to the negro regiments of the Union armies, and by them thoroughly understood and accepted.

This, therefore, expresses the main purpose which the Act of the President was intended to effect, and which it certainly has effected, to wit:—the appropriation and sequestration to the military force and benefit of the United States of that vast moral power and social motive which the promise of freedom could alone supply to the millions of slaves in the insurgent States, and—so far as social elevation to the race is concerned—even to the free negroes of the Union. It is, and was intended to be an Act, which, so far as known to and trusted by the slaves, will constitute or confirm them as a military resource for fighting *materiel* to the United States, and not to the Rebellion. And, although it is possible that the Executive may not have attended sufficiently to means that might be improved for acquainting the slaves, universally, with the edict of their emancipation, yet to-day, and to-morrow, and ever after, wherever the Rebellion meets that Proclamation it will be as a paralysis to any military reliance upon the enslaved population.

Obvious and all important as this main purpose of the President's Act is seen to have been and to be, not only has the Act itself been denounced persistently by the opponents of his administration, as an assumption of power not warranted by the Con-

stitution, but also its efficiency and its extent, as an authoritative measure, have been brought in question by some of those who approve, most unreservedly, the President's purpose. There is no hesitation manifested in the Proclamation itself, respecting this authority, nor any indefiniteness of defining it. The opening and the closing announcement of the Act, we quote, as follows, omitting the preamble:—

"Now, therefore, I, ABRAMAM LINCOLN, President of the United States, by virtue of the power in me vested as Commander-in-Chief of the Army and Navy of the United States, in time of actual rebellion against the authority and Government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on the first day of January, etc., etc.

"And upon this Act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God."

The war powers thus asserted by the President, in virtue of the Constitution, by which he is created Commander-in-Chief, are none the less potent that they have slumbered in our history unfamiliar to political logicians and to the popular apprehension;—neither are they the less far-reaching that "military necessity" is a phrase heretofore but little studied, and, until of late, scarcely heard of. Its signification, however, is as old as civilized warfare. Almost a generation has gone by since that consummate statesman, John Quincy Adams, startled the slave power in its security by declaring in the House of Representatives that the guarantees of the Constitution would disappear before the military necessities that might arise out of a servile insurrection or a war, even to a cession of the territory,—an assertion which he subsequently amplified to the extent of maintaining that in such event a military commander would be competent to manumit the slaves.* This doctrine of Mr.

* "From the instant that your slaveholding States become the theatre of a war—civil, servile, or foreign war—from that instant the war powers of Congress extend to interference with the institution of slavery in every way by which it can be interfered with, from a claim of indemnity for slaves taken or destroyed to the cession of States burdened with slavery to a foreign power."—*Speech of J. Q. Adams, May 26th, 1836.*

Again:

"But when the laws of war are in force, what, I ask, is one of those laws? It

Adams was novel to the nation and scarcely credible, but it was listened to without any attempt for its subversion, from that time to this, or, at least, without any attempt forcible enough to have made itself remembered.

Again, this same doctrine, long before Mr. Adams brought it to notice, held a historic notoriety among the records of war in our own hemisphere. Besides the South American experience of liberation, the Haytien insurrection, before alluded to, had been terminated in 1793, by an Act of French Commissioners, afterwards ratified by the French National Assembly, upon no justifying ground but that of military necessity. When thus consummated, the Act remained valid against opposition, and with so great stability that a legislative French decree and the will of Napoleon, with his sixty ships and thirty thousand soldiers, could not reverse it.

If, notwithstanding these evidences, the war powers attributed by Mr. Adams to the military commander appear too excessive to be acquiesced in, let it be further considered that while the act of President Lincoln has long been open to the view and scrutiny of civilized nations, the statesmanship of Europe, with its ample disposition to infer invalidity and objection against the measures of this country, has taken no legal exception to the sufficiency of "military necessity" as the ground for the President's Act, but only an incredulous view of this nation's ability to carry the Act into effect by suppressing the rebellion. All the war powers which the usages of civilized communities and the law of nations give to a military commander are, of course, and by eminence, conferred by the Constitution upon the President in the article which makes him Commander-in-Chief.

If a yet further conviction is required as to the reality of the

is this:—That when a country is invaded, and two hostile armies are set in martial array, the commanders of both armies have power to emancipate all the slaves in the invaded States. Nor is this a mere theoretic statement. Slavery was abolished in Columbia, first, by the Spanish General Morillo, and, secondly, by the American General Bolivar. It was abolished by virtue of a military command given at the head of the army, and its abolition continues to be law to this day."—*Ibid.*, April, 1842.

great power in question, let the simple truth be adverted to, that the very idea and character itself of "military necessity" is such as *must* imply and confer authority, in a just war, to perform any and all acts, not inconsistent with the divine commands, which are required for the nation's safety, and, therefore, for the surest and most speedy success of the war. Consequently its most familiar and unquestioned acts—unlike the comparatively mild act of emancipation—are those which, but for this necessity, natural justice would even abhor, and humanity deplore:—the desolation of districts—the exile of citizens—the appropriation of property—the obstruction of natural and artificial highways—and the plowing through ranks and columns of living men by deadly missiles. If then *slavery* is either an auxiliary or a resource to the rebellion; if it obstructs the recruiting of our armies among an entire class of population; if it enervates our might or depresses our standing among other nations; and especially if it aggravates an impending liability to foreign interference, it not only may undergo, but it *must* undergo, the fate of exploded fortresses and of captured or sunken ships.

Beyond all this it is most evident that the war power which has authority thus to grapple with slavery, is competent to reach it to the extreme extent of the military necessity itself—although it affect and revolutionize even the entire mass that does not show itself upon the field and stage of the war. The most subtle objections to the President's Act are not those which attack its essential validity, but those which restrict its operation and its application. These appear in two forms. *First*, it is urged that the Act of Emancipation, being a war measure, must cease with other war measures when pacification comes. *Second*, it is represented that, while so much as has actually *been done* under an order based upon military necessity is valid, yet all that has remained *undone* until and after the necessity terminates is released from the order. Under these, or the like ideas, the proposition has been advanced that those slaves alone who shall have achieved their freedom, by enlistment, or by escape during the war, will be made free by the Proclamation. The *first*, in order, of the restrictive views above specified, has been attributed by many persons to the present Secretary of State—they so interpreting one

passage in his speech made at Auburn before the election. But the passage, as we read it, does not touch adversely the universality and permanence of the President's Act as *law*, but only intimates a probable transfer, when peace shall come, of the contingent legal questions and the operative effects from the military power to the civil tribunals. By way of illustrating the *second* of the two restrictive views spoken of, a parallel has been attempted between the President's Act and an order given by due authority in a city to demolish buildings for arresting a fire—which order, except so far as actually executed, terminates with the occasion and necessity for it. This parallel, however, so far as it applies, is sufficiently met by observing that the supposed order of a Mayor cannot affect the permanent status of the subjects to which it applies, while the very essence and efficacy of the President's order, if it has that authority which the parallel assumes, lies in the fact that it does, of itself, change in the law the status of the whole class affected by it; just as one man's deed of land will confer upon another man a perfect and permanent title, in law, although it should not establish the new owner in actual possession.

Much, also, during the late presidential canvass, was senselessly spoken to political assemblies respecting some prospective reversal of the Proclamation in the event that a new Administration should come into power; and, on the other side, the pulpit has, upon occasion, concerned itself, just as absurdly with President Lincoln's *moral status*, in case he should withdraw his Act. Whereas, it is clear that the Proclamation, if valid at all, could not be legally affected in that particular by the President's successor, or even by the President himself: or, to use the words of the latter in his reply to the committee of dissatisfied citizens of Illinois, "The Proclamation is valid or is not valid. If it is not valid it needs no retraction. If it is valid, it cannot be retracted, any more than the dead can be brought to life." Even if the document *could* be modified or retracted the President's determination not to do it is expressed in his late message, in terms not hard to be understood.

We come, next, to quote the liberation clause of the proclama-

tion, and to give, in the fewest words consistent with clearness, the chief grounds of our expectation that the Act will stand acknowledged forever in its validity, and accepted to the full extent of its own unmistakable terms and intentions:—

“And by virtue of the power and for the purpose aforesaid, I do order and declare that ALL PERSONS HELD AS SLAVES within said designated States and parts of States, ARE AND HENCEFORTH SHALL BE FREE; and that the Executive Government of the United States, including the Military and Naval Authorities thereof, will recognize and maintain the freedom of such persons.”

This is obviously not an act of *abolition* changing the organic law of the States affected. It does not, therefore, supersede the necessity of a constitutional amendment for compassing that essential purpose. It is simply an act of *universal liberation*. Throughout those States it constitutes the slaves free persons, on the instant, in United States Law, with a pledge that, so far and so fast as the military power reestablishes the supremacy of that Law, they shall be made free in fact. This cannot be taken to imply that United States Law will have any validity upon this subject, or upon any other, if those States succeed in establishing their independence.

Now, it is safe to affirm, respecting the validity of an Order and Declaration thus, in a time of war, put forth by the magistrate whom the Constitution has invested with war powers, that the very lowest appreciation would recognize it as extending to the utmost bound of the actual military necessity, and only to be restricted, if at all, by adjudication of the highest court of the nation. It would appear to be denied, in effect, by the highest judicial authority, that the courts can go behind the chief magistrate's discretionary action, to pronounce upon his reasons.* But even if the Court should entertain an inquiry into the actual military necessity, the result cannot be doubtful. It would be, on many grounds, we think,

* Whenever a statute gives a discretionary power to any person, to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts. * * * It is no answer that such power may be abused, for there is no power which is not susceptible of abuse. Story, J., 12 *Wheaton*, *U. S. Rep.*

an inevitable conclusion, that the necessity was even broader than the most stringent interpretation and the most universal extension of the President's order. The following, we conceive, would of themselves be sufficient and ample grounds for such a conclusion and decision.

First. It would have been futile for the President to attempt wrenching from the rebellion its last desperate resource—the *arming of their able-bodied slaves*—by any act emancipating only those who should come within our military lines or otherwise achieve their own freedom; because it would have left to the rebellion, and in the gift of its leaders, the immensely better boon of unrestricted liberation,—in addition to that provision and promise of a *home* for the slaves which the leaders are now contemplating. We venture to hope, in passing, that the United States Congress will not leave this powerful motive exclusively in the hands of the Confederate Government.

Second. The prime necessity of the republic in this war—that of fighting men—could not be adequately met among the colored population without supplying to them the enthusiastic idea and character of soldiers fighting for LIBERTY in the large sense, and not for mere personal freedom. The negro regiments in the Union armies that now dash impulsively upon the lines and works of the enemy, do it as *soldiers of the Republic*, and with the spirit of men, whose entire race is elevated by the Proclamation to a civil position, becoming the dignity of manhood.

Third. The Proclamation was also necessary to confirm the millions of slaves—naturally and by circumstance a loyal population—in their loyalty to the United States,—to maintain them in the mass, women and men, old and young, able-bodied or decrepit alike, as separate in interest as possible, from the rebels, and as uncongenial in feeling. Not one loyal heart of the whole but is a strength to the Union in this war. The separation and uncongeniality are alike important in every relation.

Fourth. European intervention—and from England especially—was, at the time when the Proclamation was issued, our most anxious liability. It will hardly be disputed that noth-

ing so tied the hands of an inimical aristocracy—nothing so evidenced to the popular heart of Europe the true attitude of the Union in this war, and so strengthened it among the nations in its hour of utmost need, as this Proclamation.

Fifth. The necessity of maintaining the President's Order and Proclamation, in its full amplitude, is perpetual and national. Issuing from the war-power under the Constitution, it has not been disclaimed (whether that could be or could not be) by the people or by Congress. On their faith in it, the colored men have come to our armies by hundreds of thousands, and by thousands upon thousands have yielded up their lives. Foreign nations have accepted it, as well, and have incorporated its pledge of freedom with their elementary ideas of this American Republic. It is a never ceasing necessity that governmental powers exercised under the United States Constitution should be felt, the world over, to be of irresistible efficacy. Not alone for the present war, but for any crisis to come, whether near or remote, it is a necessity that the Republic shall never set a precedent of retrogradation or vacillation in fundamental measures. It is the highest of necessities that the faith of the Republic, now and along the ages, shall be clearly defined and stable, and that her pledges shall be always good for even their *prima facie* meaning.

With a single comment, offered as a sequel to all that has preceded, we take leave of this vitally important subject. The Proclamation does not apply to those slaveholding States that are not insurgent, and it expressly excepts large districts in some that are. It cannot, by its most complete execution, in the insurgent States, regenerate their organic law. And although we do not apprehend that those States, when reinstated, could, if so inclined, reinslave the mass of freedmen, and although we believe that the force of elementary Law and Justice in the nation would raise an effectual barrier against it, yet all this does not meet the grand necessity and want which underlies our entire social system. The nation is not, beyond a peradventure, secure and sound to the core until, by express constitutional enactments, its fundamental law, over all its domain between the oceans, is the law of freedom.